



General Assembly

January Session, 2013

Committee Bill No. 291

LCO No. 5423



* 0 5 4 2 3 S B 0 0 2 9 1 J U D *

Referred to Committee on JUDICIARY

Introduced by:
(JUD)

**AN ACT CONCERNING PROCEDURES FOR DETERMINING THE
POTENTIAL DISQUALIFICATION OF A JUDICIAL BRANCH OFFICIAL
AND ESTABLISHING A PROCESS THAT ALLOWS THE OFFICE OF
THE ATTORNEY GENERAL TO REVIEW COMPLAINTS OF
WRONGDOING BY MUNICIPAL POLICE DEPARTMENTS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 51-39 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) Except as provided in this section, a judge or family support
4 magistrate is disqualified to act if a relationship between the judge or
5 family support magistrate and a party in any proceeding in court
6 before him or her is as near as the degree of kinship between father
7 and son, brothers, or uncle and nephew, by nature or marriage, or as
8 near as between landlord and tenant, or if any judge or family support
9 magistrate may be liable to contribute to the damages, costs or
10 expenses of any proceeding before him or her, or if he or she may
11 receive a direct pecuniary benefit by the determination of any
12 proceeding before him or her.

13 (b) A judge or family support magistrate shall not be disqualified to

14 act in any proceeding by reason of his or her being a member of any
15 ecclesiastical corporation, unless it is a party to the action, nor in any
16 proceeding in which any town, city or borough is interested or is a
17 party, by reason of his or her being an inhabitant thereof or liable to
18 taxation therein or by reason of his or her being related to any taxpayer
19 or inhabitant thereof.

20 (c) Prior to the commencement of a judicial proceeding, a judge or
21 family support magistrate shall conduct, in open court, an inquiry of
22 the parties for purposes of ascertaining whether circumstances exist
23 that may result in the judge or family magistrate being disqualified
24 under the provisions of this section or under the state Code of Judicial
25 Conduct. When any judge or family support magistrate is disqualified
26 to act in any proceeding before him or her, he or she may act if the
27 parties thereto consent in open court.

28 Sec. 2. (*Effective from passage*) (a) The Legislative Program Review
29 and Investigations Committee shall study potential conflicts of interest
30 that arise in the criminal justice system between a criminal defendant
31 and an employee of the Judicial Branch, Office of the Chief State's
32 Attorney or office of the Chief Public Defender. The study shall
33 examine the implementation of processes and procedures that ensure
34 that prior to the disposition of any criminal matter, an employee of the
35 Judicial Branch, Office of the Chief State's Attorney or office of the
36 Chief Public Defender shall disclose to a criminal defendant any facts
37 or circumstances that may be construed as creating a potential conflict
38 of interest between such employee and a criminal defendant.

39 (b) Not later than February 1, 2014, said committee shall submit a
40 report of its findings and recommendations with respect to the study
41 specified in subsection (a) of this section to the joint standing
42 committee of the General Assembly having cognizance of matters
43 relating to the judiciary, in accordance with section 11-4a of the general
44 statutes.

45 Sec. 3. (NEW) (*Effective October 1, 2013*) (a) Any person having

46 knowledge of any matter involving corruption, unethical practices,
47 violation of state laws or regulations, mismanagement, gross waste of
48 funds, abuse of authority or danger to the public safety occurring in
49 any municipal police department may report all facts and information
50 in such person's possession concerning such matter to the office of the
51 Attorney General. Upon receiving such a report, the Attorney General,
52 or a designee, may make such investigation, if any, as the Attorney
53 General deems proper regarding such report and any other
54 information that may be reasonably derived from such report.

55 (b) (1) The office of the Attorney General may reject any report
56 received pursuant to subsection (a) of this section if the office
57 determines one or more of the following:

58 (A) There are other available remedies that the complainant can
59 reasonably be expected to pursue;

60 (B) The matters reported are better suited for investigation or
61 enforcement by another state agency or federal agency;

62 (C) The matters reported are trivial, frivolous, vexatious or not
63 made in good faith; or

64 (D) The matters reported are not timely or are delayed too long to
65 justify further investigation.

66 (2) If the office of the Attorney General rejects a report pursuant to
67 subdivision (1) of this subsection, the office shall provide notice to the
68 complainant setting out the basis for the rejection.

69 (c) The Attorney General, or a designee, may summon witnesses,
70 require the production of any necessary books, papers or other
71 documents and administer oaths to witnesses, where necessary, for the
72 purpose of an investigation pursuant to this section. Upon the
73 conclusion of the investigation, the Attorney General or a designee
74 shall, where necessary, report any findings involving criminal activity
75 to the Chief State's Attorney. The office of the Attorney General (1)

76 shall not, after receipt of any information from a person under the
77 provisions of this section, disclose the identity of such person without
78 such person's consent unless the office determines that such disclosure
79 is unavoidable, and (2) may withhold records of such investigation,
80 during the pendency of the investigation.

81 (d) (1) No municipal police department shall take or threaten to take
82 any personnel action against any person in retaliation for (A) such
83 person's disclosure of information to an employee of the office of the
84 Attorney General under the provisions of subsection (a) of this section;
85 or (B) such person's testimony or assistance in any proceeding under
86 this section.

87 (2) (A) A person alleging that a personnel action has been
88 threatened or has occurred, in violation of subdivision (1) of this
89 subsection, may file a complaint against the municipal police
90 department concerning such personnel action with the Chief Human
91 Rights Referee designated under section 46a-57 of the general statutes.
92 Such complaint may be amended if an additional incident giving rise
93 to a claim under this subdivision occurs subsequent to the filing of the
94 original complaint. The Chief Human Rights Referee shall assign the
95 complaint to a human rights referee appointed under section 46a-57 of
96 the general statutes, who shall conduct a hearing and issue a decision
97 concerning whether the officer or employee taking or threatening to
98 take the personnel action violated any provision of this section. The
99 human rights referee may order a municipal police department to
100 produce (i) an employee of such department to testify as a witness in
101 any proceeding under this subdivision, or (ii) books, papers or other
102 documents relevant to the complaint, without issuing a subpoena. If
103 such municipal police department fails to produce such witness,
104 books, papers or documents, not later than thirty days after such order,
105 the human rights referee may consider such failure as supporting
106 evidence for the complainant. If, after the hearing, the human rights
107 referee finds a violation, the referee may award the aggrieved
108 employee reinstatement to the employee's former position, back pay

109 and reestablishment of any employee benefits for which the employee
110 would otherwise have been eligible if such violation had not occurred,
111 reasonable attorneys' fees, and any other damages. For the purposes of
112 this subsection, such human rights referee shall act as an independent
113 hearing officer. The decision of a human rights referee under this
114 subsection may be appealed by any person who was a party at such
115 hearing, in accordance with the provisions of section 4-183 of the
116 general statutes.

117 (B) The Chief Human Rights Referee shall adopt regulations, in
118 accordance with the provisions of chapter 54 of the general statutes,
119 establishing the procedure for filing complaints and noticing and
120 conducting hearings under subparagraph (A) of this subdivision.

121 (3) In any proceeding under subdivision (2) of this subsection
122 concerning a personnel action taken or threatened against any person,
123 which personnel action occurs not later than two years after the person
124 first transmits facts and information concerning a matter under
125 subsection (a) of this section or discloses information under
126 subdivision (1) of this subsection to the office of the Attorney General,
127 there shall be a rebuttable presumption that the personnel action is in
128 retaliation for the action taken by the employee under subsection (a) of
129 this section or subdivision (1) of this subsection.

130 (e) On or before September first, annually, the office of the Attorney
131 General shall submit, in accordance with the provisions of section 11-
132 4a of the general statutes, to the clerk of each house of the General
133 Assembly a report indicating the number of matters for which facts
134 and information were transmitted to the office pursuant to this section
135 during the preceding state fiscal year and the disposition of each such
136 matter.

137 (f) No person who, in good faith, discloses information in
138 accordance with the provisions of this section shall be liable for any
139 civil damages resulting from such good faith disclosure.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	51-39
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>October 1, 2013</i>	New section

Statement of Purpose:

To (1) require Judicial Branch officials to conduct inquiries of the parties to a proceeding to ascertain whether circumstances exist that would result in the disqualification of the judge or family magistrate, and (2) permit the office of the Attorney General to investigate complaints of wrong doing in municipal police departments.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. KANE, 32nd Dist.

S.B. 291